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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

617-010002-US (PAR)

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on June 12, 2006

Signature Shannon D'Amico

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Application Number

09/737,033

Filed

12/14/2000

First Named Inventor

Mantyjarvi et al.

Art Unit

2618

Examiner

Le, Nhan T.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. 44,004
Registration number

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

Geza C. Ziegler, Jr.
Signature

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June 12, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(s): Mantyjarvi et al.
SERIAL NO.: 09/737,033 ART UNIT: 2618
FILING DATE: 12/14/2000 EXAMINER: Le, Nhan T.
TITLE: CONTROLLING TERMINAL OF A COMMUNICATION
SYSTEM
ATTORNEY
DOCKET NO.: 617-010002-US (PAR)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

1. Review is respectfully requested because the combination of references does not teach the claimed limitations. The combination of Davis and Boesen does not teach "first" and "second" detector arrangements that are based on different principles of detecting "contact" between a "surface" of the "terminal" and the "skin" of the user. While Davis teaches a detector that produces a signal responsive to a user grasping the phone, Boesen only teaches a bone sensor to detect voice vibrations of the user. Applicant's claim 1 recites a first detector arrangement and a second detector arrangement where the first and second detector arrangements are based on different principles of detecting a contact between at least one surface of the terminal and the skin of the user of the terminal and a control operation is provided only if the first and second

detector arrangements both output a signal that indicates a contact between the terminal and the skin of the user. Neither Davis nor Boesen individually or in combination disclose or suggest these features of Applicant's claim 1.

As claimed by Applicant, both the first detector arrangement and the second detector arrangement are based on different principles of detecting a contact between a surface of the terminal and the skin of the user. This is not taught by the combination of references.

The Examiner acknowledges that "Davis fails to teach the detector arrangements with two sensors being based on different principles of detecting a contact and wherein a control operation is provided only if the first and second detector arrangements both output a signal that indicates contact." Boesen does not disclose or suggest these features and thus cannot overcome the deficiencies of Davis.

Boesen discloses an ear piece (12) having a bone conduction sensor (22) in contact with the external auditory canal (Col. 3, L. 16-20). A bone conduction sensor does not detect contact between a surface of the terminal and the skin of the user as claimed by Applicant. Referring to figure 1 of Boesen, the ear piece (12) is clearly not a surface of the transceiver unit (14). Claim 1 recites contact between at least one surface of the terminal and the skin of the user not "contact" between an ear piece (12) and the skin of the user. The definition of "contact" requires a "touching or meeting". (Websters New World Dictionary, Third College Edition, 1998 (Warner Books)). The bone conduction sensor (22) is a piezoelectric accelerometer of standard construction (Col. 3, L. 48-50). An accelerometer is a device that measures acceleration (i.e. its own motion), not

"contact". The bone conduction sensor (12) is merely "intended to pick up the "vibrations" of the upper wall of the external auditory canal (34) (Col. 3, L. 58-61) and not a contact between a surface of the terminal and the skin of the user as recited in Applicant's claim 1.

The ear piece (12) of Boesen also includes an air conduction sensor or microphone (46) (Col. 3, L 16-20) for processing sound from air transmission (Col. 4, L. 5-6). Referring to figure 3 of Boesen, it is very clear that the air conduction sensor (46) is not even in contact with the skin of the user and thus, is incapable of functioning as a "contact" detector. There is no disclosure or suggestion, whatsoever, in Boesen that the air conduction sensor (46) is used to detect "contact" between a surface of the terminal and the skin of the user, as claimed by Applicant. The air conduction sensor is not used to detect, and simply cannot detect, contact between the terminal and the skin of the user. Thus, the combination of Davis and Boesen cannot disclose or suggest "first" and "second" detector arrangements, based on different principles of detecting a "contact" between a "surface" of the "terminal" and the "skin" of the user.

The combination of Davis and Boesen also fails to disclose or suggest that a control operation is provided only if the first and second detector arrangements both output a signal that indicates a "contact" between the terminal and the "skin" of the user as recited in Applicant's claim 1. As described above, the two sensors of Boesen do not detect "contact between a surface of the terminal and the skin of a user" as recited by Applicant. The two sensors of Boesen are merely acoustic sensors for detecting sounds and vibrations that are converted into voice signals which are then transmitted to the transceiver unit (14).

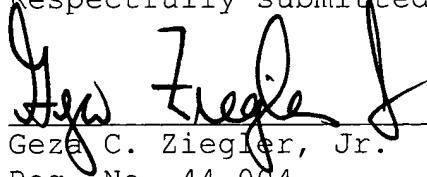
These voice signals do not regulate a control operation in the method of Boesen, and neither sensor of Boesen outputs a contact signal. Thus, the sensors of Boesen cannot provide a control operation only if two different detector arrangements (based on different principles of detecting skin contact) both indicate a contact between a surface of the terminal and the skin of the user.

The Examiner appears not to acknowledge that the claim limitations explicitly recite first and second arrangements that detect "contact" between a "surface" of the "terminal" and the "skin", by stating in the Advisory Action that Boesen teaches first and second detector arrangements being based on different principles of detecting (i.e. bone principle and air principal). Neither of these examples is directed to "contact" with the skin. The comparison drawn by the Examiner does not meet the claimed features. Thus, the combination does not and cannot teach the limitation. Thus, claim 1 is allowable. Independent claims 26, 28, 30 and 31 are also patentable over the combination of Davis and Boesen for reasons similar to those described above with respect to claim 1. Claims 3-25 depend from claim 1 and are patentable at least by reason of their respective dependencies.

Thus, it is respectfully submitted that essential elements need for a prima facie rejection are lacking, and the rejection cannot be sustained.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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12 June 2006
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